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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,943	10/21/2003	Gary D. Guidry	59744	4030
24230	7590	11/30/2004	EXAMINER	
HARSHAW RESEARCH INCORPORATED P O BOX 418 OTTAWA, KS 66067			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,943

Applicant(s)

GUIDRY, GARY D.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10-21-03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,748,766 to Stimac.

Referring to claim 1, Stimac discloses a weight disposable rodent trap comprising, a housing – at 10,12, having a bottom wall and a top wall and defining an interior space – see figure 1, a ramp – at 14, extending substantially between the bottom and top walls at an oblique angle – see figure 1, the ramp situated to define an entry opening – at 18,36, adjacent the top wall so as to enable the rodent to enter into the interior space through the entry opening after ascending the ramp – see figure 1, a platform – at 32, fixedly mounted to the ramp adjacent the entry opening and extending into the interior space in a horizontal configuration – see figure 1, the platform having at least one metallic element situated thereon – (the top portion of item 32) see column 6 lines 64-68, a trip board – at 20, pivotally mounted in the interior space – at 26, and movable between a set configuration atop the platform and a tripped configuration rotated relative to the platform – see figure 1, the trip board having a magnet – at 28, positioned thereon that is magnetically attracted to the at least one metallic element for biasing the trip board toward the set configuration until a weight of the rodent is placed upon a portion of the trip board to

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cause the trip board to move to the tripped configuration – see figure 1, and means in the interior space beneath the trip board for containing the rodent – see at 12 in figure 1, the rodent being deposited into the containing means when the trip board is moved to the tripped configuration by the rodent's weight thereon – see for example figure 1.

Referring to claim 9, Stimac discloses a side wall – at the top of 10, oppositely disposed from the ramp – see figure 1, the side wall having a panel – at 38, that is removable from the side wall so as to provide selective access to the interior space – see figure 1, a bait container – at 44, removably mounted to an interior surface of the panel – see at 48 in figure 1, and wherein the top wall and the side wall define a plurality of apertures for enabling a scent from the bait container to escape from the housing – see for example figure 1.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as applied to claim 1 above, and further in view of U.S. Patent No. 4,984,382 to Yost. Stimac does not disclose the platform defines a plurality of grooves spaced apart along the platform, each platform groove having a configuration for receiving the at least one metallic element and the trip board defining a plurality of trip board grooves spaced apart along another portion of the trip

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board, each of the trip board grooves corresponding to a respective platform groove and having a configuration for removably receiving the magnet. Yost discloses a platform – at 26, with a groove having a configuration for removably receiving the at least one metallic element – at 48, and the trip board – at 40,42,46, defining a groove corresponding to the groove in the platform and having a configuration for removably receiving the magnet – see for example figure 1.

Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac and add the groove in the platform and trip board of Yost, so as to allow for the metallic element and the magnet to be and Stimac as modified by Yost and Kazzyk does not disclose a plurality of grooves in the platform and the trip board, it would have been obvious to one of ordinary skill in the art to duplicate components for multiple effect, see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCP 1960) and MPEP section 2144.04.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as applied to claim 1 above, and further in view of U.S. Patent No. 5,471,781 to Vine. Stimac does not disclose the containing means includes a container positioned in the interior space atop the bottom wall, the rodent being deposited into the container when the weight thereof is placed on the one portion of the trip board causing the trip board to move from the set configuration to the tripped configuration. Vine does disclose the containing means includes a container – at 62-70, positioned in the interior space atop the bottom wall – at 56, the rodent being deposited into the container when the weight thereof is placed on the one portion of the trip board – at 50, causing the trip board to move from the set configuration to the tripped configuration – see for example figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the

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device of Stimac and add the container of Vine, so as to allow for the trapped animal to be easily and quickly disposed of.

Claims 4-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as modified by Vine as applied to claims 1 or 3 above, and further in view of U.S. Patent No. 3,791,065 to Snow.

Referring to claim 4, Stimac as modified by Vine further discloses the container – at 62-70 of Vine, being removable when the ramp – at 26,28, is at the open configuration – see for example figures 1-4 of Vine. Stimac as modified by Vine does not disclose the ramp is pivotally coupled to the bottom wall and movable between a closed configuration enabling the rodent to ascend the ramp and an open configuration for enabling user access to the container. Snow does disclose the ramp – at 16, is pivotally coupled to the bottom wall – see figures 1-2, and movable between a closed configuration enabling the rodent to ascend the ramp and an open configuration for enabling user access to the container – see for example figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac as modified by Vine and add the ramp of Snow, so as to allow for the device to be foldable into a smaller configuration for storage and transport.

Referring to claim 5, Stimac as modified by Vine and Snow further discloses means for selectively locking the ramp in the closed configuration – see at 18 in figures 1-2 of Snow.

Referring to claim 10, Stimac does not disclose a handle coupled to the top wall of the housing – at 10, for carrying the housing. Snow does disclose a handle – at 24, coupled to the top wall of the housing for carrying the housing – see figure 1. Therefore it would have been obvious

to one of ordinary skill in the art to take the device of Stimac and add the handle of Snow, so as to allow for the device to be easily transported.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac or Stimac as modified by Kazzyk as applied to claim 1 above, and further in view of U.S. Patent No. 6,691,452 to Knuppel et al. Stimac does not disclose a glue strip is positioned on the interior of the bottom wall, the rodent being deposited onto the glue strip when the weight thereof is placed on the one portion of the trip board and the trip board is moved from the set configuration to the tripped configuration. Knuppel et al. does disclose a glue strip – see column 5 lines 5-10, is positioned on the interior of the bottom wall, the rodent being deposited onto the glue strip when the weight thereof is placed on the one portion of the trip board and the trip board is moved from the set configuration to the tripped configuration – see for example figures 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac and add the glue strip of Knuppel et al., so as to allow for the rodent to remain in the trap with no chance of escape. Further, claim 6 further limits the containing means to a glue strip, however as seen in parent claim 1 the rodent is deposited into the containing means and therefore it is unclear to how the rodent can be deposited into a glue strip since glue strips are inherently thin strips of material that are not large enough to house/contain a rodent.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as applied to claim 1 above, and further in view of U.S. Patent No. 5,410,837 to Kazzyk.

Referring to claim 7, Stimac further discloses probes between the trip board and the top wall – see figures 1-4. Stimac does not disclose a plurality of probes pivotally mounted in the interior space above the trip board, the plurality of probes being movable between a first

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configuration extending substantially between the top wall and the trip board and a second configuration rotatably displaced from the first configuration, the plurality of probes having sharp tips respectively whereby the plurality of probes are rotated from the first configuration to the second configuration by forward movement of the rodent and the rodent is discouraged from reversing course by the sharp tips. Kazzyk does disclose a plurality of probes – at 33, pivotally mounted in the interior space, the plurality of probes being movable between a first configuration and a second configuration rotatably displaced from the first configuration – see figures 2-4, the plurality of probes having sharp tips respectively whereby the plurality of probes are rotated from the first configuration to the second configuration by forward movement of the rodent and the rodent is discouraged from reversing course by the sharp tips – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac and add the probes of Kazzyk, so as to allow for the rodent to not escape from the trap after capture.

Referring to claim 8, Stimac as modified by Kazzyk further discloses a stop member – at 38 of Kazzyk, mounted in the interior space adjacent the plurality of probes for preventing the plurality of probes from rotating toward the entry opening, whereby to prevent the rodent from reversing course and escaping after first engaging the plurality of probes – see for example figures 2-4 of Kazzyk.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as applied to claim 1 above, and further in view of WO Patent No. 02/11535 to Bozovic. Stimac does not disclose an outer surface of the ramp includes a carpet layer. Bozovic does disclose an outer surface of the ramp – at 6, includes a carpet layer – at 9 – see the Abstract. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac and add the

layer of carpet on the ramp of Bozovic, so as to allow for the animal to have better traction and be more comfortable in climbing the ramp.

Claims 12 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac in view of Kazzyk.

Referring to claim 12, Stimac discloses a weight disposable rodent trap comprising, a housing – at 10,12, having a bottom wall and a top wall and defining an interior space – see figure 1, a ramp – at 14, extending substantially between the bottom and top walls at an oblique angle – see figure 1, the ramp situated to define an entry opening – at 18,36, adjacent the top wall so as to enable the rodent to enter into the interior space through the entry opening after ascending the ramp – see figure 1, a platform – at the top of 10, fixedly mounted to the ramp adjacent the entry opening and extending into the interior space in a horizontal configuration – see figure 1, the platform having at least one metallic element situated thereon – at 32 see column 6 lines 64-68, a trip board – at 20, pivotally mounted in the interior space – at 26, and movable between a set configuration atop the platform and a tripped configuration rotated relative to the platform – see figure 1, the trip board having a magnet – at 28, positioned thereon that is magnetically attracted to the at least one metallic element for biasing the trip board toward the set configuration until a weight of the rodent is placed upon a portion of the trip board to cause the trip board to move to the tripped configuration – see figure 1, and means in the interior space beneath the trip board for containing the rodent – see at 12 in figure 1, the rodent being deposited into the containing means when the trip board is moved to the tripped configuration by the rodent's weight thereon – see for example figure 1. Stimac further discloses means for selectively positioning the metallic element on the platform – see for example proximate 32 in

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figure 4 and column 6 lines 8-32, and means for selectively positioning the magnet on the trip board – at 30. Stimac further discloses probes between the trip board and the top wall – see figures 1-4. Stimac does not disclose a plurality of probes pivotally mounted in the interior space above the trip board, the plurality of probes being movable between a first configuration extending substantially between the top wall and the trip board and a second configuration rotatably displaced from the first configuration, the plurality of probes having sharp tips respectively whereby the plurality of probes are rotated from the first configuration to the second configuration by forward movement of the rodent and the rodent is discouraged from reversing course by the sharp tips. Kazzyk does disclose a plurality of probes – at 33, pivotally mounted in the interior space, the plurality of probes being movable between a first configuration and a second configuration rotatably displaced from the first configuration – see figures 2-4, the plurality of probes having sharp tips respectively whereby the plurality of probes are rotated from the first configuration to the second configuration by forward movement of the rodent and the rodent is discouraged from reversing course by the sharp tips – see figures 2-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac and add the probes of Kazzyk, so as to allow for the rodent to not escape from the trap after capture.

Referring to claim 17, Stimac as modified by Kazzyk further discloses the plurality of probes – at 33, each include a generally arcuate tip – see figure 1 of Kazzyk, that is slightly spaced apart from the board when the plurality of probes are at the first configuration such that the rodent is enticed to urge the plurality of probes toward the second configuration, each arcuate tip prodding the rodent in a forward direction along the trip board if the rodent attempts to reverse course – see for example figures 1-4 of Kazzyk.

Referring to claims 18-19, Stimac as modified by Kazzyk further discloses a stop member – at 38 of Kazzyk, mounted in the interior space adjacent the plurality of probes for preventing the plurality of probes from rotating toward the entry opening, whereby to prevent the rodent from reversing course and escaping after first engaging the plurality of probes – see for example figures 2-4 of Kazzyk.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as modified by Kazzyk as applied to claim 12 above, and further in view of U.S. Patent No. 4,984,382 to Yost. Stimac as modified by Kazzyk does not disclose the platform defines a plurality of grooves spaced apart along the platform, each platform groove having a configuration for receiving the at least one metallic element and the trip board defining a plurality of trip board grooves spaced apart along another portion of the trip board, each of the trip board grooves corresponding to a respective platform groove and having a configuration for removably receiving the magnet. Yost discloses a platform – at 26, with a groove having a configuration for removably receiving the at least one metallic element – at 48, and the trip board – at 40,42,46, defining a groove corresponding to the groove in the platform and having a configuration for removably receiving the magnet – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac as modified by Kazzyk and add the groove in the platform and trip board of Yost, so as to allow for the metallic element and the magnet to be easily replaced. Further, Stimac as modified by Yost and Kazzyk does not disclose a plurality of grooves in the platform and the trip board, it would have been obvious to one of ordinary skill in the art to duplicate components for multiple effect, see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCP 1960) and MPEP section 2144.04.

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Claims 14 ^{15 are} rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as modified by Kazzyk as applied to claim 12 above, and further in view of U.S. Patent No. 5,471,781 to Vine. Stimac as modified by Kazzyk does not disclose the containing means includes a container positioned in the interior space atop the bottom wall, the rodent being deposited into the container when the weight thereof is placed on the one portion of the trip board causing the trip board to move from the set configuration to the tripped configuration. Vine does disclose the containing means includes a container – at 62-70, positioned in the interior space atop the bottom wall – at 56, the rodent being deposited into the container when the weight thereof is placed on the one portion of the trip board – at 50, causing the trip board to move from the set configuration to the tripped configuration – see for example figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac as modified by Kazzyk and add the container of Vine, so as to allow for the trapped animal to be easily and quickly disposed of.

Referring to claim 15, Stimac as modified by Vine and Kazzyk further discloses the container – at 62-70 of Vine, being removable when the ramp – at 26,28, is at the open configuration – see for example figures 1-4 of Vine. Stimac as modified by Vine and Kazzyk does not disclose the ramp is pivotally coupled to the bottom wall and movable between a closed configuration enabling the rodent to ascend the ramp and an open configuration for enabling user access to the container. Snow does disclose the ramp – at 16, is pivotally coupled to the bottom wall – see figures 1-2, and movable between a closed configuration enabling the rodent to ascend the ramp and an open configuration for enabling user access to the container – see for example figures 1-4. Therefore it would have been obvious to one of ordinary skill in the art to take the

device of Stimac as modified by Vine and Kazzyk and add the ramp of Snow, so as to allow for the device to be foldable into a smaller configuration for storage and transport.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as modified by Kazzyk as applied to claim 12 above, and further in view of U.S. Patent No. 6,691,452 to Knuppel et al. Stimac as modified by Kazzyk does not disclose a glue strip is positioned on the interior of the bottom wall, the rodent being deposited onto the glue strip when the weight thereof is placed on the one portion of the trip board and the trip board is moved from the set configuration to the tripped configuration. Knuppel et al. does disclose a glue strip – see column 5 lines 5-10, is positioned on the interior of the bottom wall, the rodent being deposited onto the glue strip when the weight thereof is placed on the one portion of the trip board and the trip board is moved from the set configuration to the tripped configuration – see for example figures 3-4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac as modified by Kazzyk and add the glue strip of Knuppel et al., so as to allow for the rodent to remain in the trap with no chance of escape. Further, claim 16 further limits the containing means to a glue strip, however as seen in parent claim 12 the rodent is deposited into the containing means and therefore it is unclear to how the rodent can be deposited into a glue strip since glue strips are inherently thin strips of material that are not large enough to house/contain a rodent.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimac as modified by Kazzyk as applied to claim 12 above, and further in view of U.S. Patent No. 3,936,972 to Meyers et al. Stimac as modified by Kazzyk further discloses a side wall – at the top of 10, oppositely disposed from the ramp – see figure 1, the side wall having a panel – at 38,

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that is removable from the side wall so as to provide selective access to the interior space – see figure 1, a bait container – at 44, removably mounted to an interior surface of the panel – see at 48 in figure 1, and wherein the top wall and the side wall define a plurality of apertures for enabling a scent from the bait container to escape from the housing – see for example figure 1. Stimac as modified by Kazzyk does not disclose the front wall is transparent. Meyers does disclose the front wall is transparent – at 26. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Stimac as modified by Kazzyk and add the transparent wall of Meyers et al., so as to allow for the user to see into the device to verify when an animal is trapped.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to rodent traps in general:

U.S. Pat. No. 1,353,882 to Wojcik – shows ramp and trip board

U.S. Pat. No. 4,062,142 to Marotti – shows rodent trap with magnet

U.S. Pat. No. 4,145,834 to Quigley – shows rodent trap with magnet and ramp

U.S. Pat. No. 4,379,374 to Lindley – shows pivotally connected ramp

U.S. Pat. No. 4,393,616 to Kaufman et al. – shows trip board

U.S. Pat. No. 4,429,483 to Murakami – shows ramp and trip board

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U.S. Pat. No. 4,876,821 to Benzie – shows ramp and trip board

U.S. Pat. No. 6,016,623 to Celestine – shows ramp and trip board

U.S. Pat. No. 6,088,948 to Ronnau – shows ramp and trip board

FR Pat. No. 2563083 – shows ramp and trip board

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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